

PROACTIVE RELEASE COVERSHEET

Minister	Minister David Parker	Portfolio	Environment
Name of package	Final policy recommendations for decommissioning plans under the EEZ Act	Date of issue	04 September 2019

List of documents that have been proactively released		
Date	Title	Author
04/09/19	<i>DEV-19-MIN-0192 Decommissioning Plans under the EEZ Act: Final Policy Proposals</i>	<i>Cabinet Economic Development Committee</i>

Information withheld

The information contained within the Minute of Decision has been released in full. There are no reasons for withholding that are consistent with the Official Information Act 1982 or any other legislation. There is no potential liability that may result from release.



Cabinet Economic Development Committee

Minute of Decision

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Decommissioning Plans under the EEZ Act: Final Policy Proposals

Portfolio Environment

On 24 July 2019, the Cabinet Economic Development Committee:

Background

- 1 **noted** that the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (EEZ Act) was amended in 2017 to require decommissioning plans to be submitted and accepted by the Environmental Protection Authority (EPA) ahead of marine consents for decommissioning-related activities;
- 2 **noted** that regulations are needed to deliver these changes, and that the paragraphs set out below cover the detailed decisions needed on:
 - 2.1 the scope of, and information to be included in, a decommissioning plan;
 - 2.2 the process for dealing with a plan, and the criteria for assessing and accepting a plan;
 - 2.3 the process for making amendments to an accepted decommissioning plan;
 - 2.4 cost recovery for decommissioning plans;

Scope of decommissioning plans

- 3 **agreed** that the regulations will impose plan requirements on activities that must be carried out in order to prepare and take an offshore installation, including its associated structures, cables and pipelines, permanently out of service;
- 4 **agreed** that the regulations will not include requirements for:
 - 4.1 any activities to be undertaken at an offshore petroleum installation, or on its associated structures, cables and pipelines, while that installation is still being used for petroleum production;
 - 4.2 activities already considered and granted under a marine consent (eg, deposit of drill cuttings);
 - 4.3 any activities associated with reusing the offshore petroleum installation to serve a purpose other than that for which it was originally intended;

- 5 **agreed** that for the purposes of the regulations, ‘installations’:
- 5.1 include fixed steel, concrete gravity, floating and subsea installations (eg, well heads, production manifolds, drilling templates);
 - 5.2 do not include any part of an offshore installation that is located below the surface of the seabed (eg, wells and well casings);

Information to be included in a decommissioning plan

To be included in all decommissioning plans

- 6 **agreed** that the decommissioning plan must include:
- 6.1 background information including, as a minimum:
 - 6.1.1 a description of the existing environment;
 - 6.1.2 a description of the items (installations, wells, structures and pipelines) to be decommissioned, including the amount, type, location, depth, size, stability, age and condition of all materials;
 - 6.1.3 a description and explanation of any related equipment not covered by the decommissioning plan;
 - 6.2 for the proposed approach:
 - 6.2.1 a description of the anticipated method for the removal, disposal or dumping of material;
 - 6.2.2 a description of any preparatory activities;
 - 6.2.3 a general description of how any waste generated will be dealt with;
 - 6.2.4 opportunities to reuse, recycle or treat materials;
 - 6.3 a list of all active, suspended and previously abandoned wells relating to the installation (that are not included as items to be decommissioned);
 - 6.4 information about the consultation and engagement that has been undertaken, including as a minimum:
 - 6.4.1 details of any engagement strategy mutually developed with the relevant iwi authority;
 - 6.4.2 a description of the engagement carried out, which must include:
 - 6.4.2.1 identifying the relevant marine management agencies, relevant iwi authority and existing interests;
 - 6.4.2.2 providing information to those identified on options for the plan;
 - 6.4.2.3 seeking views from those identified, and considering those views in any comparative assessment (if required);

- 6.4.2.4 demonstrating the extent to which matters raised have been considered and addressed;
- 6.5 an indication of the likely timescale for undertaking the proposed decommissioning approach, including when various stages of the decommissioning are expected to start and finish;
- 6.6 information about any post-decommissioning monitoring and maintenance that may be necessary, including:
 - 6.6.1 a description of any post-decommissioning monitoring and maintenance, including seabed sampling surveys to monitor levels of hydrocarbons, heavy metals and other contaminants in sediments and biota;
 - 6.6.2 an indication of monitoring timeframes and how results will be reported;
 - 6.6.3 where material is to be dumped on or above the seabed or abandoned in situ, a description of the anticipated inspection and maintenance programme, and an estimation of the cost of the programme;
 - 6.6.4 a description of any engagement activities to be undertaken during and post-decommissioning;

For pipelines, and where complete removal is not the preferred approach

- 7 **agreed** that a comparative assessment of all the feasible decommissioning options (including partial removal and dumping) must be included in a decommissioning plan for:
 - 7.1 all installations and associated structures and cables, except where complete removal is the preferred approach;
 - 7.2 all subsea pipelines regardless of the preferred approach;
- 8 **agreed** that the plan must identify the preferred approach that will result in the best practicable environmental outcome by demonstrating how the following have been taken into account:
 - 8.1 the potential impact on cultural values;
 - 8.2 the potential effect on the safety of surface or subsurface navigation or existing interests;
 - 8.3 the potential effect, including cumulative and future effects, on the marine environment, including:
 - 8.3.1 the rate of deterioration of any material left on the seabed and its present and possible future effects on the environment;
 - 8.3.2 the risk of material shifting from its position in the future;
 - 8.4 the potential effects on human health;
 - 8.5 the cost, technical feasibility and risk of injury to personnel associated with removal;
 - 8.6 practical limitations of disposal alternatives;

- 8.7 the cost of reuse, recycling or disposal alternatives, and any potential ongoing management and monitoring necessary to ensure the protection of the environment and human health;
- 8.8 exclusion of future uses;
- 8.9 opportunities for off-site recycling;
- 8.10 destruction of hazardous constituents;
- 8.11 treatment to reduce or remove the hazardous constituents;

Process for dealing with a decommissioning plan

Public notification requirements

- 9 **agreed** that once an operator submits a draft decommissioning plan to the EPA (ie, for public consultation), the EPA may request any further information it considers necessary to be included in the plan in accordance with the requirements set out above;
- 10 **agreed** that before notifying the plan, the EPA must be satisfied that:
 - 10.1 sufficient engagement has been undertaken with relevant marine management agencies, relevant iwi authority and existing interests to inform the comparative assessment and preferred option identified in the plan (this information should be set out in the consultation and engagement section of the plan);
 - 10.2 the plan includes all of the information to be included in a plan in sufficient detail, meaning the information provided:
 - 10.2.1 is proportionate to the potential impact of the proposed approach on the environment and existing interests;
 - 10.2.2 enables the EPA and the public to understand the nature of the activity and make informed submissions on the proposal;
 - 10.2.3 enables the EPA to assess the plan against the criteria for acceptance (this does not preclude the EPA from being able to request further information following submissions before making its decision);
- 11 **agreed** that for the purposes of the regulations, an operator is to be treated as having engaged with iwi authorities in relation to the decommissioning plan, if the operator has demonstrated it has done all the following:
 - 11.1 considered ways in which it may foster the development of the relevant iwi's capacity to respond to an invitation to consult;
 - 11.2 established and maintained processes to provide opportunities for those iwi authorities to input into the comparative assessment (if applicable);
 - 11.3 developed a mutually determined engagement strategy;
 - 11.4 consulted with those iwi authorities;
 - 11.5 enabled those iwi authorities to identify issues of concern to them;
 - 11.6 indicated how those issues have been or are to be addressed;

- 12 **agreed** that the EPA:
- 12.1 must also prepare or commission a report on the key matters relating to the decommissioning plan, which may include an indication of information it seeks through submissions and any advice it has received from other marine management agencies and the EPA's Maori Advisory Committee, Ngā Kaihautū Tikanga Taiao;
 - 12.2 must publish its report and any relevant further information it has received at the same time it gives public notice of the decommissioning plan;
 - 12.3 has discretion to set the timeframe for the submission process, subject to the submission process being no less than 30 working days;
- 13 **noted** that in deciding the consultation period, the EPA must consider the interests of:
- 13.1 any person who, in the regulator's opinion, may be directly affected by the length of the consultation period;
 - 13.2 the community in being able to achieve an adequate assessment of the potential effects of a proposal;

Dealing with submissions

- 14 **agreed** that the owner of the decommissioning plan must consider each submission made and either amend its plan in response to the submission, or explain to the EPA why it does not propose to amend the plan;
- 15 **agreed** that submissions must be provided to the EPA to be published on its website and to the owner of the decommissioning plan;

Withholding sensitive information

- 16 **agreed** that the EPA can withhold any information in a submission or decommissioning plan that is considered to be culturally sensitive at the request of a consultee, the owner of the decommissioning plan or on its own initiative;
- 17 **agreed** that the EPA can withhold any information in a decommissioning plan that is considered to be commercially sensitive information at the request of the owner of the decommissioning plan;
- 18 **agreed** that the grounds for withholding information in a decommissioning plan (or submission) include:
- 18.1 to avoid causing serious offence to tikanga Māori or to avoid disclosing the location of wāhi tapu;
 - 18.2 to avoid disclosing a trade secret or to avoid causing unreasonable prejudice to the commercial position of the person who supplied, or is the subject of, the information;
- 19 **agreed** that the EPA may not give a direction to withhold information if, in the circumstances of the particular case, the public interest in making the information available outweighs the importance of avoiding such offence, disclosure, or prejudice;

Deciding whether to accept a decommissioning plan

- 20 **agreed** that the EPA may seek advice or information from any persons it considers necessary at any time before it accepts the plan;

21 **agreed** that in reaching a view on the best practicable environmental outcome, the EPA must consult with other relevant marine management agencies and iwi authorities before determining whether to accept a plan or not, including:

21.1 the adjacent regional council(s);

21.2 WorkSafe New Zealand,

21.3 Maritime New Zealand,

21.4 Department of Conservation,

21.5 Ministry for Primary Industries,

21.6 Ministry of Business, Innovation and Employment,

22 **agreed** that after consulting with other relevant marine management agencies and iwi authorities, and after considering any further information sought as a result, the EPA must accept the plan if it is satisfied that it meets the criteria set out in regulations;

23 **noted** that the EEZ Act requires the EPA to give written notice of its decision, and if it refuses to accept the plan, the reasons for that decision, to the owner of the decommissioning plan;

24 **agreed** that, once accepted, the final decommissioning plan must be made available on the EPA website;

Criteria for assessing and accepting a plan

25 **noted** that the EEZ Act requires the EPA, having assessed the plan, to accept the plan if it is satisfied that the plan meets the criteria prescribed by the regulations, or to refuse to accept the plan;

26 **noted** that the EPA may refuse to accept a plan if it considers that it does not have adequate information to determine whether it meets the criteria;

27 **agreed** that all installations, structures and cables must be removed from the seabed unless it can be demonstrated to the satisfaction of the EPA that removing material will not result in the best practicable environmental outcome;

28 **agreed** that any installations, or parts thereof, that are allowed to remain on the seabed should meet the following requirements:

28.1 installations that project above the surface of the sea must be adequately maintained to prevent structural failure;

28.2 there must be an unobstructed water column above any partially removed installations or structures of sufficient depth to ensure safety of navigation;

28.3 the materials will remain in the same location on the seabed and not move under the influence of waves, tides, currents, storms or other foreseeable natural causes (so as not to cause a hazard to navigation);

29 **agreed** that for the EPA to accept a decommissioning plan, the EPA must be satisfied that:

29.1 the final decommissioning plan has adequately considered and responded to the matters raised during public consultation; or

- 29.2 the operator has provided an adequate justification as to why it proposes not to amend the plan;
- 30 **agreed** that where the preferred approach in a decommissioning plan includes dumping (structures, installations or pipelines), the EPA may only accept the plan if it considers all the following are met:
- 30.1 dumping of the material complies with New Zealand's international obligations with respect to the dumping of waste;
 - 30.2 dumping of the material will not cause unjustifiable interference with existing interests;
 - 30.3 after taking account of the matters listed in paragraph 8 above, that dumping of the material results in the best practicable environmental outcome;
 - 30.4 entire removal is not technically feasible, would involve an unacceptable risk of injury to personnel, or would involve an unreasonable cost;
 - 30.5 there are no other opportunities to re-use, recycle or treat the material, without undue risks to human health or the environment or disproportionate costs;

Amending an accepted decommissioning plan

- 31 **agreed** that, if the owner of a decommissioning plan accepted by the EPA seeks to amend its plan, the EPA may determine:
- 31.1 public consultation is required only in relation to the changes from the current plan to the revised plan; or
 - 31.2 public consultation is not required if the EPA is satisfied that the effect on the environment and existing interests of implementing the revised decommissioning plan would not be materially different from, or would be less than, the effect of implementing the current plan;
- 32 **agreed** that the EPA may seek further information or advice from any persons, including those it considers may have existing interests affected by changes to the accepted decommissioning plan, when reaching a view on whether to undertake public consultation on changes to a plan;

Cost recovery for processing decommissioning plans

- 33 **agreed** to amend the Exclusive Economic Zone and Continental Shelf (Fees and Charges) Regulations 2013 to enable the EPA to recover costs associated with processing and assessing a decommissioning plan from the owner of the decommissioning plan;
- 34 **agreed** that a new category for a delegated decision maker in respect of decommissioning plans be included in the regulations, with an hourly rate of \$257.04;

General

- 35 **invited** the Minister for the Environment to issue drafting instructions to the Parliamentary Counsel Office to draft the proposed regulations based on the above paragraphs;
- 36 **authorised** the Minister for the Environment to approve minor policy changes during drafting of the regulations;

- 37 **agreed** to release an exposure draft of the regulations (including amendments to the Exclusive Economic Zone and Continental Shelf (Fees and Charges) Regulations 2013) for targeted consultation with submitters (including industry, three iwi, one community group, one regional council), owners of offshore installations, the EPA and WorkSafe New Zealand.

Janine Harvey
Committee Secretary

Present:

Rt Hon Winston Peters
Hon Kelvin Davis
Hon Grant Robertson (Chair)
Hon Phil Twyford
Hon Dr Megan Woods
Hon Chris Hipkins
Hon David Parker
Hon Nanaia Mahuta
Hon Stuart Nash
Hon Iain Lees-Galloway
Hon Jenny Salesa
Hon Shane Jones
Hon James Shaw
Hon Eugenie Sage

Officials present from:

Officials Committee for DEV

Hard-copy distribution:

Minister for the Environment